

MR01

Particulars of a charge

Laserform

A fee is payable with this form
Please see 'How to pay' on the
last page

You can use the WebFiling service to file this form online
Please go to www.companieshouse.gov.uk

☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument

☒ **What this form is NOT for**
You may not use this form to
register a charge where there is no
instrument Use form MR08

For further information, please
refer to our guidance at
www.companieshouse.gov.uk

This form must be delivered to the Registrar for registration within
21 days beginning with the day after the date of creation of the charge.
If delivered outside of the 21 days it will be rejected unless it is accompanied by a
court order extending the time for delivery



You must enclose a certified copy of the instrument with this form. The copy must be
scanned and placed on the public record. **Do not send the original**

SATURDAY



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A05

15/08/2015

#102

COMPANIES HOUSE

For official use

0006

→ **Filling in this form**
Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

1 Company details

Company number 0 5 2 0 9 8 6 1

Company name in full ACAL ENERGY LTD

2 Charge creation date

Charge creation date d 0 d 7 m 0 m 8 y 2 y 0 y 1 y 5

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name CARBON TRUST INVESTMENTS LIMITED

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge

MR01

Particulars of a charge

4	Brief description Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument Brief description	Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument" Please limit the description to the available space
5	Other charge or fixed security Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box [✓] Yes ☐ No	
6	Floating charge Is the instrument expressed to contain a floating charge? Please tick the appropriate box [✓] Yes Continue ☐ No Go to Section 7 Is the floating charge expressed to cover all the property and undertaking of the company? ☐ Yes	
7	Negative Pledge Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box [✓] Yes ☐ No	
8	Trustee statement ① You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge ☐	① This statement may be filed after the registration of the charge (use form MR06)
9	Signature Please sign the form here Signature X Taylor Wong LLP X This form must be signed by a person with an interest in the charge	

MR01

Particulars of a charge



Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name Igor Shershunovych

Company name Taylor Wessing LLP

Address 5 New Street Square

Post town London

County/Region

Postcode E C 4 A 3 T W

Country

DX 41 London - Chancery Lane

Telephone +44 (0)207 300 7000



Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy



Important information

Please note that all information on this form will appear on the public record.



How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'.



Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below.

For companies registered in England and Wales
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland:
The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland:
The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5209861

Charge code: 0520 9861 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th August 2015 and created by ACAL ENERGY LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 15th August 2015.

Given at Companies House, Cardiff on 21st August 2015

DX



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

DATED

7 August

2015

ACAL ENERGY LIMITED
as Chargor

and

CARBON TRUST INVESTMENTS LIMITED
as Security Trustee

DEBENTURE

5 New Street Square | London EC4A 3TW
Tel +44 (0)20 7300 7000
Fax +44 (0)20 7300 7100
DX 41 London
www.taylorwessing.com

TaylorWessing

Certified to be a true copy of the original

Taylor Wessing LLP
Taylor Wessing LLP

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THIS DEBENTURE is made on

7 August

2015

BETWEEN

- (1) **ACAL ENERGY LIMITED** as **Chargor**, and
- (2) **CARBON TRUST INVESTMENTS LIMITED** as **Security Trustee**

AGREED TERMS

1 Definitions and Interpretation

1.1 Definitions

In this deed, to the extent not defined herein capitalised terms and expressions used in this deed shall have the same meanings as ascribed to them in the Finance Documents, and

"Administrator" means any one or more persons appointed as an administrator of the Chargor by the Security Trustee under paragraph 14 of schedule B1 to the Insolvency Act,

"Agreement" means a loan note subscription agreement dated on or around the date hereof made between the Chargor and the Investors,

"A Investors" means the Investors as defined in the loan note subscription agreement dated 22 July 2013 made between the Chargor and the Investors set out therein (as amended from time to time),

"A Investors Debenture" means a debenture dated 22 July 2013 granted by the Chargors to the A Investors,

"B Investors" means the Investors as defined in the loan note subscription agreement dated 12 December 2013 made between the Chargor and the Investors set out therein (as amended from time to time),

"B Investors Debenture" means a debenture dated 12 December 2013 granted by the Chargors to the B Investors,

"C Investors" means the Investors as defined in the loan note subscription agreement dated 19 February 2015 made between the Chargor and the Investors set out therein (as amended from time to time),

"C Investors Debenture" means a debenture dated 19 February 2015 granted by the Chargors to the C Investors,

"Charged Property" means the assets mortgaged, charged or assigned by the Chargor under this deed,

"Chargor" means ACAL Energy Limited a company incorporated in England and Wales with registration no 05209861 whose registered office is at c/o Grant Thornton, 1st Floor Royal Liver Building, Liverpool, Mersey L3 1PS,

"Delegate" means any delegate, agent, attorney or co-trustee appointed by the Security Trustee,

"Finance Documents" means the Agreement and the Loan Note Instrument,

"Financial Collateral Regulations" means the Financial Collateral Arrangements (No 2) Regulations 2003 SI 2003/3226,

"Group" means the Company and its Subsidiaries from time to time,

"Insolvency Act" means the Insolvency Act 1986,

"Intellectual Property" means all present and future rights of the Chargor in respect of any patent, copyright, trade mark, service mark, invention, design, knowhow, confidential information or any other kind of intellectual property whether registered or unregistered and any registration or application for registration, licence or permission relating to any of the foregoing,

"Investors" has the meaning given to such term in the Agreement,

"Loan Note Instrument" means the loan note instrument entered into by the Chargor on or around the date hereof constituting £520,000 secured convertible loan notes,

"LPA" means the Law of Property Act 1925,

"Permitted Security" means

- (a) the Security created under any this deed,
- (b) the Security created pursuant to the A Investors Debenture,
- (c) the Security created pursuant to the B Investors Debenture,
- (d) the Security created pursuant to the C Investors Debenture, and
- (e) for a period beginning on the date when it attached to the relevant Charged Property and ending 30 days from such date, a lien arising by operation of law in the ordinary course of business,

"Plant and Equipment" means the plant, equipment, machinery, tools, vehicles and furniture described in schedule 1,

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property,

"Secured Liabilities" means all obligations of the Chargor owed or expressed to be owed to the Secured Parties (or any of them) under or in connection with the Finance Documents whether owed jointly or severally, as principal or surety or in any other capacity,

"Secured Party" means the Investors, the Security Trustee, a Receiver or any Delegate,

"Security" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect,

"Security Interest" means any mortgage, charge, assignment, pledge, lien, right of set-off, hypothecation, encumbrance, priority or other security interest (whether fixed or floating) including, without limitation, any **"hold-back"** or **"flawed asset"** arrangement together with any preferential right, retention of title, deferred purchase, leasing, sale or purchase, sale and leaseback arrangement, trust agreement, declaration of trust, trust arising by operation of law, any option or agreement for any of the same or any arrangement which has substantially the same commercial or substantive effect as the creation of security,

"Security Trustee" means Carbon Trust Investments Limited a company incorporated in England and Wales with registration no 04649291 whose registered office is at 4th Floor, Dorset House, 27-45 Stamford Road, London SE1 9NT acting as security trustee for the Investors or any successor appointed under the terms of the Finance Documents, and

"Subsidiary" bears the same meaning as that contained in Section 1159 of the Companies Act 2006

1 2 *Interpretation*

In this deed, unless a contrary indication appears

- (a) **"obligations"** means obligations and liabilities,
- (b) references to obligations and liabilities include the whole or any part of them, present and future, actual and contingent,
- (c) any reference to **"powers"** includes rights, powers, discretions and authorities, and
- (d) any reference to any asset includes any proceeds of sale of any such asset

1 3 *Construction of charging clause*

Each of the security interests created by clause 3 (Fixed Security) shall be construed as separate and distinct interests over the relevant assets so that the recharacterisation for any reason of any security interest over any one asset shall not affect the nature of the security interest created over any other asset

1 4 *Incorporation*

This deed incorporates the terms of the Finance Documents and any side letters between the parties to the extent required to ensure the validity of any purported disposition under this deed of any freehold or leasehold property under s2(1) of the Law of Property (Miscellaneous Provisions) Act 1989

2. **Undertaking to Pay**

The Chargor undertakes with the Security Trustee to pay the Secured Liabilities to the Security Trustee when due

3. **Fixed Security**

As continuing security for the payment of the Secured Liabilities the Chargor with full title guarantee charges to the Security Trustee by way of fixed charge its rights and interest in

- (a) any Plant and Equipment listed in schedule 1, and
- (b) any present or future Intellectual Property

4. Floating Security

4 1 Floating charge

As continuing security for the payment of the Secured Liabilities the Chargor charges to the Security Trustee by way of floating charge with full title guarantee the whole of its present or future assets to the extent that such assets are not effectively mortgaged, charged or assigned to the Security Trustee by way of fixed security under clause 3 (Fixed Security)

Any asset acquired by the Chargor after any crystallisation of the floating charge created under this deed that, but for that crystallisation, would be subject to a floating charge under this deed, shall (unless the Security Trustee confirms otherwise to the Chargor in writing) be charged to the Security Trustee by way of first fixed charge

4 2 Conversion

Subject to clause 4 3 (Moratorium under Insolvency Act), the Security Trustee may at any time by written notice to the Chargor convert the floating charge created by clause 4 1 (Floating Charge) into a fixed charge as regards any assets specified in the notice if

- (a) this deed has become enforceable, or
- (b) in the reasonable opinion of the Security Trustee such assets are at risk of becoming subject to any Security (other than a Permitted Security) or are otherwise at risk of ceasing to be within the ownership or control of the Chargor

4 3 Moratorium under Insolvency Act

The Security Trustee shall not be entitled to convert the floating charge created by clause 4 1 (Floating Charge) into a fixed charge as a result only of the Chargor obtaining a moratorium or anything done with a view to obtaining a moratorium under s1A of and schedule A1 to the Insolvency Act

4 4 Qualifying floating charge

Paragraph 14(2)(a) of schedule B1 to the Insolvency Act applies to the floating charge created by clause 4 1 (Floating Charge) which is a "qualifying floating charge" for the purpose of paragraph 14(1) of schedule B1 to the Insolvency Act

5. Negative Undertakings

5 1 Negative pledge

The Chargor shall not create or permit to subsist any Security over any of the Charged Property other than a Permitted Security

5 2 *Disposals*

Subject to clause 5 3, the Chargor shall not sell, transfer, lease or otherwise dispose or purport or agree to dispose of

- (a) any of its assets which are expressed to be mortgaged by way of legal or equitable mortgage, assigned by way of security or charged by way of fixed security or charge to the Security Trustee under clause 3 (Fixed Security),
- (b) any of its other assets other than on arm's length terms in the ordinary course of its trading

6. **Warranties**

6 1 The Company represents and warrants to the Lender that

(a) *Powers*

it has power to enter into this debenture, to exercise its rights and perform its obligations hereunder, and has taken all necessary corporate and other action to authorise the execution, delivery and performance of this debenture and any other documents referred to herein,

(b) *Authorisations*

all acts, conditions, authorisations and other things required to be done, fulfilled and performed by it in order

- (i) to enable it lawfully to enter into, exercise its rights under and perform and comply with the obligations expressed to be assumed by it in this debenture,
- (ii) to ensure that the obligations expressed to be assumed by it in this debenture are legal, valid and binding, and
- (iii) to make this debenture admissible in evidence in the jurisdiction in which it is incorporated or, if different, has its principal place of business,

have been done, fulfilled and performed and are in full force and effect,

(c) *Legal validity*

the obligations expressed to be assumed by it in this debenture are legal and valid obligations binding on it in accordance with this debenture,

(d) *Insolvency*

no steps have been taken or legal proceedings been started or threatened against it or any other member of the Group for its winding up, dissolution or re organisation or for the appointment of a receiver, administrator, administrative receiver, trustee or similar officer of it or of any or all of its revenues or assets,

(e) *Ownership of the Charged Property*

it is absolutely, solely and beneficially entitled to all the Charged Property as from the date it or any part of it falls to be charged under this debenture and,

with the exception of the assets charged by the A Investors Debenture, those charged by the B Investors Debenture, and those charged by the C Investors Debenture, the rights of the Chargor in respect of the Charged Property are free from any Security Interest of any kind, and

(f) *No disposal*

it has not sold or agreed to sell or otherwise disposed of, or agreed to dispose of, the benefit of all or any of the Chargor's right, title and interest in and to the Charged Property

6 2 The representations and warranties set forth in this clause are given and made on and as of the date of this debenture

7. Undertakings relating to the Charged Property

7 1 *Proprietorship*

The Chargor shall not permit any person

- (a) to be registered as proprietor under the Land Registration Act 2002 of any Charged Property nor create or permit to arise any interest referred to in schedule 1 or schedule 3 of such Act affecting any Charged Property, or
- (b) to become entitled to any proprietary right or interest which might affect the value of any Charged Property

7 2 *Identification plate*

The Chargor shall if so requested by the Security Trustee (acting reasonably)

- (a) place and maintain on any Plant and Equipment forming a material part of the Charged Property, in a conspicuous place, a clearly legible identification plate containing the following wording

"NOTICE OF CHARGE

This [description of item] and ancillary equipment is subject to a fixed charge in favour of []",

- (b) obtain from any landlord of premises on which any such Plant and Equipment is located a waiver of such landlord's rights of distress in form and substance satisfactory to the Security Trustee

7 3 *Failure to comply*

If the Chargor fails to comply with any of its obligations under this deed the Security Trustee may take such steps as it considers appropriate to procure compliance with such obligations at the cost of the Chargor

7 4 *Insurance*

The Chargor shall keep all Plant and Equipment which is of an insurable nature insured in the name of the Chargor against all risks which a prudent person carrying on a business similar to that of the Chargor would reasonably insure against

8. Enforcement of Security

8.1 Security Trustee's powers

This deed will become enforceable on the making of a demand pursuant to clause 2 (Undertaking to pay) or if the Chargor requests that the Security Trustee exercises any of its powers under this clause 8.1, this deed shall become enforceable and the Security Trustee may immediately or at any time thereafter

- (a) appoint one or more persons as an Administrator of the Chargor in accordance with schedule B1 to the Insolvency Act,
- (b) exercise the power of sale and all other powers conferred by s101 of the LPA as varied or extended by this deed,
- (c) subject to clause 4.3 (Moratorium under Insolvency Act), by written notice to the Chargor convert the floating charge created by clause 4.1 (Floating Charge) into a fixed charge as regards any assets specified in the notice,
- (d) make any lease or agreement for lease or accept surrenders of leases and grant options on such terms as it thinks fit without needing to comply with sections 99 and 100 of the LPA,
- (e) subject to s72A of and paragraph 43 of Schedule A1 to the Insolvency Act, appoint one or more persons as a Receiver of any Charged Property,
- (f) exercise all the powers conferred on a Receiver by this deed, the LPA and the Insolvency Act,
- (g) secure and perfect its title to all or any part of the Charged Property and/or transfer any asset into the name of its nominee,
- (h) to the extent that this deed constitutes a "security financial collateral arrangement" as defined in the Financial Collateral Regulations, appropriate any Charged Property which constitutes "financial collateral" as defined in the Financial Collateral Regulations in or towards satisfaction of the Secured Liabilities and the Security Trustee shall value such Charged Property by reference to an independent valuation or other procedure selected by the Security Trustee acting reasonably

8.2 Powers under the LPA

- (a) Section 103 of the LPA will not apply to this deed
- (b) The power of sale and all other powers conferred by s101 of the LPA as varied or extended by this deed will arise upon execution of this deed by the Chargor

8.3 Administrators

If the Security Trustee appoints two or more persons as Administrator of the Chargor, the appointment may specify whether those persons are to act jointly or concurrently

8.4 Receivers

- (a) The Security Trustee may appoint any Receiver upon such terms as to remuneration and otherwise as the Security Trustee thinks fit and the maximum rate specified in s109(6) of the LPA shall not apply

- (b) Any Receiver will be the agent of the Chargor for all purposes and the Chargor will be responsible for such Receiver's acts and defaults and for his remuneration, costs, fees, taxes and expenses to the exclusion of liability on the part of the Security Trustee
- (c) Where two or more persons are appointed as Receiver any act authorised to be done by the Receiver may be done by all of them acting jointly or by any one or more of them acting severally
- (d) The Security Trustee may at any time by writing remove any Receiver (subject to the obtaining of any required order of the court in the case of an administrative receiver) whether or not the Security Trustee appoints any other person as Receiver in his place

9. Powers of Receiver and Security Trustee

9 1 *Statutory powers*

A Receiver shall have and be entitled to exercise all the powers conferred on a receiver by the LPA and, whether or not such a Receiver is an administrative receiver, all the powers conferred upon an administrative receiver by Schedule 1 to the Insolvency Act which powers are incorporated in this deed

9 2 *Additional powers*

By way of addition to and without limiting any other powers referred to in this clause a Receiver shall have power (both before and after the commencement of any liquidation of the Chargor) to do every act and thing and exercise every power

- (a) which the Chargor would have been entitled to do or exercise if no Receiver had been appointed or which the Receiver would have been entitled to do or exercise if the Receiver were the absolute legal and beneficial owner of the Charged Property,
- (b) which such Receiver in his absolute discretion considers necessary or desirable for maintaining or enhancing the value of any Charged Property or for or in connection with the enforcement of the Security created by this deed or the realisation of any Charged Property,

and may use the name of the Chargor in connection with any exercise of such powers

9 3 *Consideration*

The receipt of the Security Trustee or any Receiver shall be a conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Property the Security Trustee or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit

9 4 *Prior encumbrances*

At any time after the security given by this deed has become enforceable, the Security Trustee may redeem any prior Security against the Charged Property or procure a transfer of such Security to itself and may agree the accounts of the person entitled to that Security and any accounts so agreed will be binding on the Chargor. Any money paid by the Security Trustee in connection with a redemption or transfer of any prior Security will form part of the Secured Liabilities

9 5 *Possession*

If the Security Trustee, any Receiver or any Delegate takes possession of any Charged Property it may go out of possession at any time

10. Exclusion of Liability

10 1 *No obligation to recover*

Neither the Security Trustee nor any Receiver is under any obligation to take action to collect any money or enforce any rights comprised in the Charged Property whether or not it is in possession of the relevant Charged Property

10 2 *Liability as mortgagee in possession*

If the Security Trustee or any Receiver takes possession of any Charged Property, it will not be liable to account to the Chargor for anything except actual receipts or be liable to the Chargor for any loss arising from any realisation of any Charged Property or for any default or omission for which a receiver or mortgagee in possession would be liable

10 3 *Losses on enforcement*

No Secured Party will be liable to the Chargor for any loss or damage arising from

- (a) any sale of any Charged Property,
- (b) any act, default or omission of any Secured Party in relation to any Charged Property, or
- (c) any exercise or non-exercise by any Secured Party of any power conferred upon it in relation to any Charged Property by or pursuant to this deed or by the LPA,

unless such loss or damage is caused by the fraud, gross negligence or wilful misconduct of such Secured Party

11. Application of Proceeds

11 1 *Order of application*

Subject to clause 11.2 (Prospective liabilities) and to claims having priority to the Security created by this deed and by way of variation to the provisions of the LPA, all amounts from time to time received or recovered by the Security Trustee in connection with the realisation or enforcement of all or any part of the Security constituted by this deed (for the purposes of this clause the "**Recoveries**") shall be held by the Security Trustee to apply them at any time as the Security Trustee (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this clause), in the following order

- (a) in payment of all costs and expenses incurred by any Secured Party in connection with any realisation or enforcement of this deed and of all outgoings properly payable by any Secured Party,
- (b) in payment of remuneration to any Receiver,

- (c) in payment towards the Secured Liabilities, and
- (d) the balance (if any) will be applied as required by law

11 2 Prospective liabilities

The Security Trustee may, in its discretion, hold any amount of the Recoveries in an interest bearing suspense or impersonal account(s) in the name of the Security Trustee with such financial institution (including itself) and for so long as the Security Trustee shall think fit (the interest being credited to the relevant account) for later application under clause 11 1 (Order of Application) in respect of

- (a) any sum owing to the Security Trustee, any Receiver or any Delegate, and
- (b) any part of the Secured Liabilities,

that the Security Trustee reasonably considers, in each case, might become due or owing at any time in the future

11 3 Investment of proceeds

Prior to the application of the proceeds of the Recoveries in accordance with clause 11 1 (Order of Application) the Security Trustee may, in its discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Trustee with such financial institution (including itself) and for so long as the Security Trustee shall think fit (the interest being credited to the relevant account) pending the application from time to time of those moneys in the Security Trustee's discretion in accordance with clause 11 1 (Order of Application)

11 4 Currency Conversion

- (a) For the purpose of, or pending the discharge of, any of the Secured Liabilities the Security Trustee may convert any moneys received or recovered by the Security Trustee from one currency to the currency in which the Secured Liabilities are denominated, at a market rate of exchange
- (b) The obligations of the Chargor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion

11 5 Permitted Deductions

The Security Trustee shall be entitled, in its discretion

- (a) to set aside by way of reserve amounts required to meet, and to make and pay, any deductions and withholdings (on account of taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this deed, and
- (b) to pay all Taxes which may be assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties, or by virtue of its capacity as Security Trustee under the Finance Documents or otherwise

12. Protection of Persons Dealing with Security Trustee or Receiver

No person dealing with the Security Trustee or any Receiver will be concerned to enquire

- (a) whether any event has happened upon which any of the powers conferred by this deed may have arisen or be exercisable,
- (b) otherwise as to the propriety or regularity of any exercise of the powers conferred by this deed or of any act purporting or intended to be in exercise of such powers, or
- (c) whether any Secured Liabilities remain owing

13. Notice of Subsequent Charge

If the Security Trustee receives notice of any Security or other interest affecting any Charged Property

- (a) it may open a new account for the Chargor in its books and may transfer any outstanding balance owing by the Chargor to such new account,
- (b) if it does not open a new account then, unless it gives express written notice to the contrary to the Chargor, all payments made by the Chargor to it will as from the time of receipt of such notice be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities

14. Further Assurance

When required by the Security Trustee or any Receiver the Chargor shall, at its own cost

- (a) execute a charge by way of legal mortgage, assignment by way of security or fixed charge over any assets of the Chargor and such legal mortgage, assignment or charge shall secure the Secured Liabilities and contain a power of sale which arises immediately upon execution, provisions excluding s93 of the LPA and the restrictions contained in s103 of the LPA and such other provisions including any similar to those in this deed as the Security Trustee may reasonably require,
- (b) execute any documents or do any other thing which the Security Trustee or any Receiver may require for perfecting or protecting any Security created by this deed or in connection with the exercise of any powers given to the Security Trustee or any Receiver under this deed, and
- (c) convey, transfer, assign or otherwise deal with any Charged Property in such manner as the Security Trustee or any Receiver may require in connection with any enforcement of any Security created by this deed

15. Power of Attorney by Chargor

- (a) Subject to (b) below, the Chargor irrevocably and by way of security appoints each of the Security Trustee, any person selected by the Security Trustee and any Receiver its attorney in each case (with full power to appoint substitutes and to delegate) severally in its name and on its behalf to execute any document or do any act or thing which

- (i) the Chargor is entitled to execute or do in relation to the Charged Property including giving a receipt for any money and exercising any rights or remedies forming part of the Charged Property, or
 - (ii) the Chargor is obliged to execute or do under this deed
- (b) The powers granted in (a) above shall take effect upon the date of this deed, but may only be exercised by the Security Trustee, any person selected by the Security Trustee or any Receiver once this deed has become enforceable

16. Discharge of Security

16 1 *Discharge conditional*

Any discharge of the Chargor by the Security Trustee in reliance on a payment or security received by the Security Trustee will cease to be effective if that payment or security is avoided, reduced or invalidated for any reason and the Security Trustee will be entitled to recover from the Chargor on demand the amount of the Secured Liabilities discharged by such payment or security

16 2 *Retention of security*

Following any discharge of the Chargor made by the Security Trustee in reliance on a payment or security the Security Trustee may retain the security constituted by this deed (and all documents of title or other documents necessary to protect such Security) until the expiry of the maximum period within which such payment or security can be avoided, reduced or invalidated for any reason. If the person making such payment or giving such security goes into liquidation or administration or equivalent proceedings in any foreign jurisdiction within that period the Security Trustee may retain the security constituted by this deed for as long as it thinks fit

17. Redemption

If the Security Trustee determines that all of the Secured Liabilities have been fully and finally discharged and it is not under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to the Chargor pursuant to the Finance Documents the Security Trustee shall release

- (a) without recourse or warranty, all of the Security constituted by this deed, and
- (b) the rights of the Security Trustee under this deed

18. Miscellaneous

18 1 *Third Party Rights*

- (a) Unless expressly provided to the contrary, a person who is not a party to this deed has no right under the Third Parties Act to enforce or to enjoy the benefit of any term of this deed
- (b) Notwithstanding any term of this deed, the consent of any person other than the Chargor and the Security Trustee is not required to rescind or vary this deed at any time

- (c) A Secured Party may, subject to this clause 18.1 and the Third Parties Act, rely on any provision of this deed which expressly confers rights on it

18.2 *Continuing Security*

This deed is a continuing security and extends to the balance from time to time of the Secured Liabilities irrespective of any intermediate payment of the Secured Liabilities

18.3 *Other Security*

This deed is in addition to and will not in any way be prejudiced or affected by the holding or release by the Security Trustee or any other person of any other security at any time held by the Security Trustee

18.4 *Consolidation*

The restrictions on the right of consolidating mortgage securities contained in s93 of the LPA will not apply to this deed

19. Law

This deed and any non-contractual obligations arising out of or in connection with this deed shall be governed by English law

20. Jurisdiction

20.1 *Jurisdiction of English courts*

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed and a dispute regarding a non-contractual obligation referred to in clause 19 (Law)) (a "**Dispute**")
- (b) The Security Trustee and the Chargor agree that the courts of England are the most appropriate and convenient courts to settle Disputes. The Chargor will not argue to the contrary
- (c) This clause is for the benefit of the Security Trustee only. As a result, the Security Trustee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Trustee may take concurrent proceedings in any number of jurisdictions

This deed has been executed and delivered as a deed by the Chargor and signed on behalf of the Security Trustee on the date shown at the beginning of this deed

THE CHARGOR

**EXECUTED by ACAL ENERGY
LIMITED** acting by a director
in the presence of

)
) *Andrew M Creet*
)

A M CREET

Director

Signature of witness

Brennan M Bilton

Name of witness

BRENNAN M BILTON

Address of witness

63 WELL LANE, HESWALL, CH60 8NQ.

SECURITY TRUSTEE

**EXECUTED by CARBON TRUST
INVESTMENTS LIMITED** acting by
a director in the presence of

)
)
)

Director

Signature of witness

Name of witness

Address of witness

THE CHARGOR

EXECUTED by **ACAL ENERGY**)
LIMITED acting by a director)
in the presence of)

Director

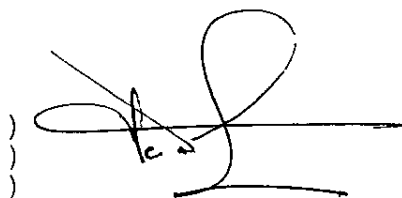
Signature of witness

Name of witness

Address of witness

SECURITY TRUSTEE

EXECUTED by **CARBON TRUST**)
INVESTMENTS LIMITED acting by)
~~a director in the presence of~~)



Director



BRAD DUNCAN
COMPANY SECRETARY

Signature of witness

Name of witness

Address of witness

